

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS—EASTERN DIVISION

EXXONMOBIL OIL CORPORATION, )  
a New York Corporation, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
D CONSTRUCTION MANAGEMENT )  
COMPANY, INC, an Illinois Corporation, )  
P.T. FERRO CONSTRUCTION COMPANY, )  
INC., an Illinois Corporation, TRANSYSTEMS )  
CORPORATION, a Missouri Corporation, and )  
CONSOER TOWNSEND ENVIRODYNE )  
ENGINEERS, INC., a Delaware Corporation, )  
 )  
Defendants. )

08-CV-3064

**ANSWER OF DEFENDANT P.T. FERRO CONSTRUCTION COMPANY, INC.**

Defendant P.T. FERRO CONSTRUCTION COMPANY, INC., through its counsel,  
RATHBUN, CSERVENYAK & KOZOL, LLC, answers plaintiff's Complaint as follows:

1. Admit.
2. Admit.
3. Admit.
4. Admit.
5. Admit.
6. Admit.

**OPERATIVE FACTS**

7. Defendant lacks sufficient information at this time regarding ownership of the electric lines, and therefore denies the same. Defendant admits that the roadway reconstruction project was commissioned by Will County.

8. Admit.

9. Admit.

10. Admit.

11. Admit.

12. Admit.

13. Admit.

14. Defendant lacks sufficient information to either admit or deny the allegations in this paragraph, and therefore denies the same.

15. Defendant lacks sufficient information to either admit or deny the allegations in this paragraph, and therefore denies the same.

16. Defendant admits that it encountered electrical conduit lines at the project location, and denies the remaining allegations in this paragraph.

17. Deny.

18. Defendant admits that the conduit lines were encased in steel tubing with an outer concrete covering, and denies the remaining allegations in this paragraph.

19. Defendant admits that the conduit lines contained three heavy gauge copper electrical lines, and denies the remaining allegations in this paragraph.

20. Deny.

21. Deny.

22. Deny.

23. Deny.

24. Deny.

JURISDICTION AND VENUE

- 25. Admit.
- 26. Admit.
- 27. Admit.
- 28. Admit.
- 29. Admit.
- 30. Admit.
- 31. Admit.

COUNT I—TRESPASS

- 32. Defendant restates its answers to paragraphs 1-31 as its answer to paragraph 32.
- 33. Deny.
- 34. Deny.
- 35. Deny.

WHEREFORE, Defendant P.T. FERRO CONSTRUCTION COMPANY, INC. respectfully requests the Court enter judgment in its favor, assess costs of suit against Plaintiff, and award it all other relief it deems appropriate.

COUNT II—NEGLIGENCE (D. CONSTRUCTION)

36-39. As Count II contains no allegations pertaining to this defendant, it makes no answer to the same.

COUNT III--NEGLIGENCE

- 40. Defendant restates its answers to paragraphs 1-31 as its answer to paragraph 40.
- 41. Defendant admits that it owed plaintiff only the duties as imposed by law, and specifically denies any violation of the same.

42. Defendant denies the allegations in paragraph 42, and each subpart thereof.

43. Deny.

WHEREFORE, Defendant P.T. FERRO CONSTRUCTION COMPANY, INC. respectfully requests the Court enter judgment in its favor, assess costs of suit against Plaintiff, and award it all other relief it deems appropriate.

#### COUNTS IV – V NEGLIGENCE

(TRANSSYSTEMS CORPORATION AND CONSOER ENVIRODYNE ENGINEERS, INC.)

44-51. As Counts IV and V contain no allegations pertaining to this defendant, it makes no answer to the same.

#### AFFIRMATIVE DEFENSES

Defendant P.T. FERRO CONSTRUCTION COMPANY, INC. asserts the following affirmative defenses against Plaintiff:

1. Defendant owed no duty to third parties, including Plaintiff, to judge the plans, specifications or instructions, specifications or instructions it has merely contracted to follow, and Defendant in no way deviated from such plans.

2. Plaintiff was contributorily negligent in:

- a) failing to locate and mark the existence of the conduits and electrical lines;
- b) failing to advise any defendant of the location or existence of the conduits and electrical lines;
- c) failing to take any action to halt the excavation upon learning that such excavation had begun;

- d) failing to participate in Illinois' State-Wide-One-Call Notice System; and
- e) failing to notify the Illinois State-Wide-One-Call Notice System (J.U.L.I.E) of the location or existence of the conduits.

3. Plaintiff designed and installed the conduits in a manner such that it was reasonably foreseeable that they would be struck by those performing ordinary maintenance or construction on or near the roadway.

WHEREFORE, Defendant P.T. FERRO CONSTRUCTION COMPANY, INC. respectfully requests the Court enter judgment in its favor, assess costs of suit against Plaintiff, and award it all other relief it deems appropriate.

**DEFENDANT DEMANDS TRIAL BY JURY**

P.T. FERRO CONSTRUCTION COMPANY,  
Defendant

By: s/William V. Kozol  
One of Its Attorneys

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